

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ARTHUR MENDOZA FELIX,
 Plaintiff(s),
 v.
 EXPERIAN, et al.,
 Defendant(s).

Case No. 2:24-cv-01886-GMN-NJK

ORDER

Plaintiff is proceeding in this action *pro se* and has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*. Docket No. 1.

I. In Forma Pauperis Application

Plaintiff filed an affidavit required by § 1915(a). Docket No. 1. Plaintiff has shown an inability to prepay fees and costs or give security for them. Accordingly, the application to proceed *in forma pauperis* (Docket No. 1) will be granted pursuant to 28 U.S.C. § 1915(a). The Clerk's Office is further **INSTRUCTED** to file the complaint on the docket.

II. Screening the Complaint

Upon granting an application to proceed *in forma pauperis*, courts additionally screen the complaint pursuant to § 1915(e). Federal courts are given the authority to dismiss a case if the action is legally "frivolous or malicious," fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). When a court dismisses a complaint under § 1915, the plaintiff should be given leave to amend the complaint with directions as to curing its deficiencies, unless it is clear from the face of the complaint that the deficiencies could not be cured by amendment. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

Rule 12(b)(6) of the Federal Rules of Civil Procedure provides for dismissal of a complaint for failure to state a claim upon which relief can be granted. Review under Rule 12(b)(6) is

1 essentially a ruling on a question of law. *See Chappel v. Lab. Corp. of Am.*, 232 F.3d 719, 723
2 (9th Cir. 2000). A properly pled complaint must provide a short and plain statement of the claim
3 showing that the pleader is entitled to relief. Fed. R. Civ. P. 8(a)(2); *Bell Atlantic Corp. v.*
4 *Twombly*, 550 U.S. 544, 555 (2007). Although Rule 8 does not require detailed factual allegations,
5 it demands “more than labels and conclusions” or a “formulaic recitation of the elements of a cause
6 of action.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Papasan v. Allain*, 478 U.S. 265,
7 286 (1986)). The court must accept as true all well-pled factual allegations contained in the
8 complaint, but the same requirement does not apply to legal conclusions. *Iqbal*, 556 U.S. at 679.
9 Mere recitals of the elements of a cause of action, supported only by conclusory allegations, do
10 not suffice. *Id.* at 678. Secondly, where the claims in the complaint have not crossed the line from
11 conceivable to plausible, the complaint should be dismissed. *Twombly*, 550 U.S. at 570.
12 Allegations of a *pro se* complaint are held to less stringent standards than formal pleadings drafted
13 by lawyers. *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (finding that liberal
14 construction of *pro se* pleadings is required after *Twombly* and *Iqbal*).

15 To comply with Rule 8, a complaint must set forth coherently who is being sued, for what
16 relief, and on what theory, with enough detail to guide discovery. *See McHenry v. Renne*, 84 F.3d
17 1172, 1178 (9th Cir. 1995). In cases against multiple defendants, it is particularly important that
18 the complaint concisely alleges which defendants are liable for which wrongs. *See id.* Although
19 the Court construes complaints drafted by *pro se* litigants liberally, *Hebbe v. Pliler*, 627 F.3d 338,
20 342 & n.7 (9th Cir. 2010), they still must comply with the basic requirements of Rule 8, *see, e.g.*,
21 *Montgomery v. Las Vegas Metropolitan Police Dept.*, 2014 WL 3724213, at *3 n.3 (D. Nev. July
22 28, 2014).

23 The gist of Plaintiff’s complaint is that he requested “10 errors in [his] credit report[]” be
24 corrected by the three different credit reporting agencies. Docket No. 1-1 at ¶ 10. Plaintiff alleges
25 that Defendants breached their duties to correct the errors. *See id.* at ¶¶ 16-19. Plaintiff’s
26 complaint otherwise consists largely of cutting-and-pasting various statutes and asserting
27 damages. The complaint also shifts between referencing “Defendants” in the plural and
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1 referencing “Defendant” in the singular. *See, e.g., id.* at ¶ 29 (referencing “Defendant” acted
2 willfully).

3 These allegations fail to comply with the requirements in Rule 8. The underlying factual
4 allegations lack any detail at all, including what information within the credit reports Plaintiff
5 allegedly challenged as being erroneous. Moreover, the complaint is not specific as to which
6 allegations are alleged as to each of the Defendants named.

7 Accordingly, the complaint fails to comply with Rule 8 or state a claim on which relief
8 may be granted. Because the Court cannot say that amendment would be futile, Plaintiff is
9 afforded an opportunity to file an amended complaint if the deficiencies identified above can be
10 corrected.

11 **III. Conclusion**

12 Accordingly, **IT IS ORDERED** that:

13 1. Plaintiff’s application to proceed *in forma pauperis* (Docket No. 1) is **GRANTED**.

14 Plaintiff shall not be required to pay the filing fee. Plaintiff is permitted to maintain
15 this action to conclusion without the necessity of prepayment of any additional fees or
16 costs or the giving of a security therefor. This order granting leave to proceed *in forma*
17 *pauperis* shall not extend to the issuance and/or service of subpoenas at government
18 expense.

19 2. The Clerk’s Office is **INSTRUCTED** to file Plaintiff’s complaint on the docket.

20 3. Plaintiff’s complaint is **DISMISSED** with leave to amend. Plaintiff will have until
21 **April 28, 2025**, to file an amended complaint, if the noted deficiencies can be corrected.

22 If Plaintiff chooses to amend the complaint, Plaintiff is informed that the Court cannot
23 refer to a prior pleading (i.e., the original complaint) in order to make the amended
24 complaint complete. This is because, as a general rule, an amended complaint
25 supersedes the original complaint. Local Rule 15-1(a) requires that an amended
26 complaint be complete in itself without reference to any prior pleading. Once a plaintiff
27 files an amended complaint, the original complaint no longer serves any function in the
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1 case. Therefore, in an amended complaint, as in an original complaint, each claim and
2 the involvement of each Defendant must be sufficiently alleged.

3 **4. Failure to file an amended complaint by the deadline set above will result in the**
4 **recommended dismissal of this case.**

5 IT IS SO ORDERED.

6 Dated: April 7, 2025

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Nancy J. Koppe
United States Magistrate Judge